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Submission to the Commission of Inquiry into Queensland Police Service responses to domestic and family violence, by Associate Professor Terry Goldsworthy and Senior Teaching Fellow Joseph Crowley

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Submission¹ to the Commission of Inquiry into Queensland Police Service responses to domestic and family violence, by Associate Professor Terry Goldsworthy² and Senior Teaching Fellow Joseph Crowley³.

INTRODUCTION

The commission has been set up with the following terms of reference. The Commission will examine:

- Whether there are any cultural issues within the Queensland Police Service that negatively affect police investigations of DFV
- If there are any cultural issues, whether they have contributed to the overrepresentation of First Nations people in the criminal justice system
- The capability, capacity and structure of the Queensland Police Service to respond to DFV, and
- The adequacy of the current conduct and complaints handling processes against police officers.

The authors will address each point as relevant.

¹ The authors stress that, throughout this submission, the views expressed are those of the authors; they do not necessarily reflect the opinions of their employer, Bond University.

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WHETHER THERE ARE ANY CULTURAL ISSUES WITHIN THE QUEENSLAND POLICE SERVICE THAT NEGATIVELY AFFECT POLICE INVESTIGATIONS OF DFV.

“I don’t think there is a cultural issue”

These are the words used by Deputy Commissioner Tracey Linford in May 2022 when asked about failings of the QPS in relation to the domestic and family violence (DFV) related death of Dorren Langham (Chamberlin & Kyriacou, 2022). The Queensland coroner was scathing in her view of police inaction in response to attempts by Langham to get police assistance, she contacted 16 different police officers for assistance, but was still killed by her partner (Cassidy, 2022). Rather, when incidents such as this arise the senior executive use bureaucratic language and describe such failings as being a “service gap”, a gap that cost someone their life (Chamberlin & Kyriacou, 2022). With such resistance from the senior executive of the Queensland Police Service (QPS) it is little wonder that DFV deaths continue to occur.

There has been much public and media discourse and concern regarding police responses to incidents of DFV. Such concerns increase in cases where there are real or perceived failings in the response of the QPS. The role of the QPS is essentially to make the state safe by preventing, disrupting, responding to and investigating crime (Queensland Police Service, 2022b). Essentially the prime role of the QPS is that of fighting crime. Any other duties that take away from the primary objective could be seen as a distraction. In the strategic plan of the QPS there is only one specific reference to domestic violence, it is a passing mention in terms of partnering with the community and others agencies to respond to over representation of victims or offenders (Queensland Police Service, 2022b). This is despite DFV related duties accounting for 40 percent of police time according to Deputy Commissioner Gollschewski (Smee, 2022).

The authors would argue that such a lack of specific focus on DFV assists only assists the perception that most DFV is merely a distraction from the primary police role of crime fighting. Essentially DFV policing interventions may be seen as “relationship management” for DFV matters on the lower scale of behaviours. DFV only becomes a crime fighting issue, with the dedicated allocation investigative of resources, once the DVF actions have culminated into a peak criminal event such as serious injury or death.

As previously indicated some 40 percent of police time is spent on DFV related incidents. This issue of time is crucial in the culture of how police perceive DFV. A 2021 report indicated that it took an average of 3 hours and 31 minutes for police to process a police application for a Domestic Violence Order (DVO) (Queensland Government Statistician's Office, 2021). Such time cost for what is essentially seen by police as an administrative process to obtain a civil order is simply unacceptable. It would be logical to think that police would tend to minimise or mischaracterise incidents to avoid having to undertake such a time intensive process that is not seen as having any crime fighting value. Urgent action needs to be taken to reduce the amount of time police have to spend processing DVO applications. If this is achieved, then the culture of general duties police would be more amenable to undertaking such processes.

Little focus is placed on ensuring the responses to DFV are appropriate at the commencement of police interactions with victim; that is prior to any escalation of violence. How is it that a person can approach 16 different police officers as in the case of Langham, yet no one flags this as a matter for serious investigation? A further example of this is a matter that former Detective Inspector Goldsworthy has knowledge of during his tenure at the Southern Investigative Group, Gold Coast Criminal Investigation Branch. Goldsworthy was relieving as

a regional duty officer at the time of this specific matter but became aware of issues around it later upon his return to duties at the Southern Investigative Group. In February 2008 police were called to a disturbance at Bulimah Street, Koala Park on the Gold Coast. Police located a female, Lee Newcombe, who had been stabbed by her defacto, Tyrone McMahon. Inquiries revealed that police had attended the address on numerous occasions prior to the homicide but had failed to take any substantial action in relation to DFV. At the subsequent trial of McMahon, he was found not guilty of the murder of Newcombe by successfully raising the defence of accident.

At the time of this outcome Goldsworthy expressed concerns as to the lack of action in relation to previous incidents, and the outcome of the criminal investigation itself having regard to the evidence that should have been available. Goldsworthy requested information to review the matter but was transferred on promotion to another position prior to any review being undertaken. To Goldsworthy's knowledge no review of this matter was even undertaken to identify any possible failings in the lead up to and the investigation of this DFV death. Matters in which there is inaction are still occurring today as evidenced by the findings of the coroner in the matter Langham in July 2022 (Cassidy, 2022).

Perceptions of DFV only being a crime issue if they involve serious offences are reinforced by the comments of senior police. In 2015 former QPS Deputy Commissioner Brett Pointing made the following comment in relation to perceptions of police failing to respond adequately following several DFV murders:

We need to move very quickly on ensuring that where serious criminal matters such as assaults occur as part of DV, that we are engaging our detectives through the CI branch or child protection unit to ensure that those investigations are expedited. There is also another piece of work that we're doing around ensuring that domestic violence protection orders are served as soon as possible. (Australian Broadcasting Corporation, 2015)

In September 2015 Associate Professor Goldsworthy appeared on the ABC 7.30 report in the wake of a series of DFV related deaths in the southeast corner of Queensland. As noted on the program introduction "it's been revealed the victim sought police help in the days before she was attacked and killed. Yet she was turned away. A number of families are in shock and now asking what more could have been done to save her life." (Australian Broadcasting Corporation, 2015).

The program was referencing Tara Brown, who attended Southport police station for assistance in relation to DFV but was turned away. She was subsequently murdered by her estranged husband, Lionel Patea. Patea was convicted of the murder. Professor Goldsworthy, who served for 28 years in the QPS made the following observation:

What is the cultural attitude of police towards DV matters? Do they see it as important crime or do they see it as a distraction from their primary crime fighting role? I think there is a lot of room for education on how important it is to treat this as a serious crime issue. I look at the reaction we had when we had the bikie brawl at Broadbeach. The reaction was instantaneous, the resources were put into it. (Australian Broadcasting Corporation, 2015)

The issues of police cultural responses to DVF were publicly flagged seven years ago in the mainstream media. Senior police must have been aware of these concerns, yet what was done to address such concerns is a question that must be answered.

Indeed, the response of the QPS to Outlaw Motorcycle Gangs (OMCGs) is worthy of comparing and contrasting to the response to DFV. In response to a brawl involving OMCG members in 2013, some 200 hundred police were specifically dedicated to combatting OMCG related crime. Taskforce Takeback and Maxima were formed, the policing response was overwhelming and immediate.

Yet on any measurement that amount of crime committed by OMCGs is quite low, less than one percent (Goldsworthy & McGillivray, 2017; Queensland Organised Crime Commission of Inquiry, 2015; Taskforce on Organised Crime Legislation, 2016). The top ten offences for OMCG members are minor street level offences (Goldsworthy & McGillivray, 2017).

Table 1: Top 10 Charges by Number with a Guilty Finding Against OMCG Members in QLD between 2008 and 2014

Type of Charge	Number of offences
Possessing dangerous drugs	595
Commit public nuisance	285
Breach of bail condition	258
Assault or obstruct police officer	218
Contravene direction or requirement	151
Failure to appear in accordance with undertaking	144
Possess utensils or pipes etc. that had been used	126
Stealing	121
Assaults occasioning bodily harm	110
Wilful Damage	103

Source: RTI data.

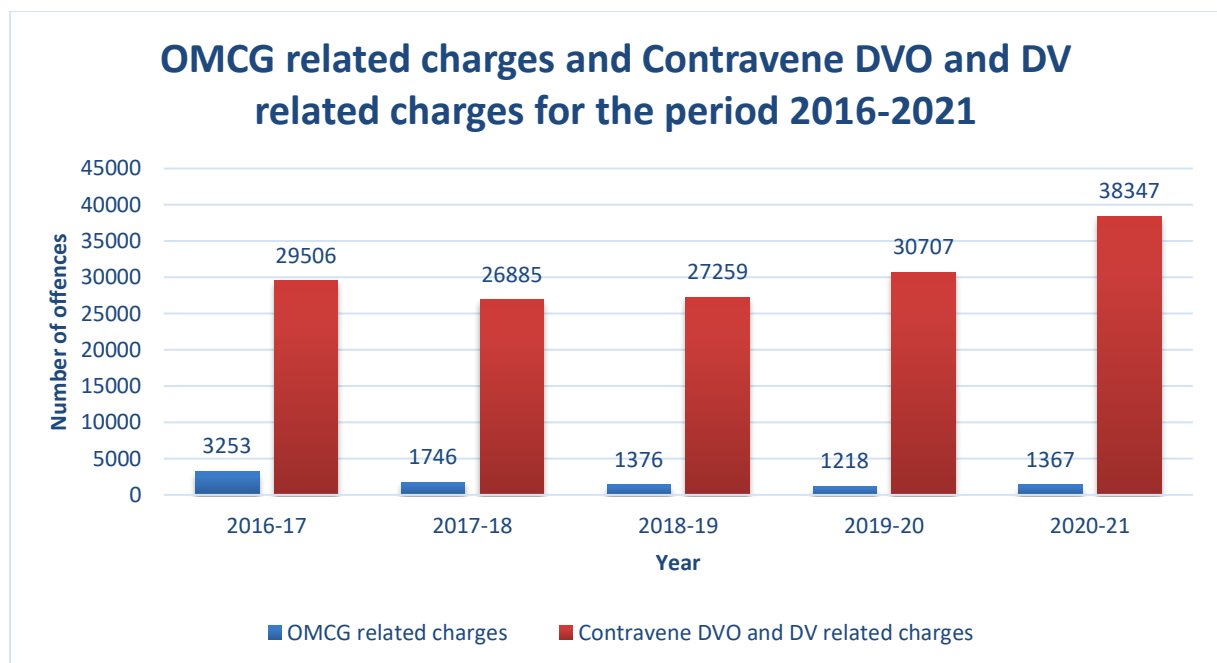
In terms of peak criminal events the harm inflicted by DFV is far greater than the harm of OMCG activity. For example, between 2008-14 OMCGs accounted for 1 percent of homicides in Queensland (Goldsworthy & McGillivray, 2017). In 2019-20 DFV homicides accounted for 38 percent of homicides in Queensland (Australian Institute of Criminology, 2022). Yet we have not seen the investigation of serious DFV offences being carried out by specialist taskforces, rather an ad hoc approach is taken to each individual DFV incident.

Much of the investigative effort for OMCGs is put into policing consorting type offences, which carry a penalty of three years. Only a handful of actual consorting offences have been laid in the six years the offences have been on the statute books. Compare this to DFV matters where a breach of a DVO is an offence in section 177 of the *Domestic and Family Protection Act 2012*, which also carries a maximum three-year penalty, the same as consorting offences. Both offences have the same punishment outcomes, yet the investigative response is totally different. OMCGs involve the use of specialist units, DFV relies on an ad hoc approach undertaken primarily by general duty officers.

In the main the approach of the QPS to DFV seems to be couched in terms of risk management rather than proactive crime fighting. The QPS organisational structure shows that there is a substantial allocation of investigative resources to the Organised Crime Gangs Group in the Crime and Intelligence Command. The Domestic Family Violence and Vulnerable Persons Command by contrast has little or no investigative capacity, but merely an oversight role. The purpose of the DV command is to deliver sustainable, effective, innovative and efficient policies strategies and responses to DFV (Queensland Police Service, 2022a). It also provides a “lens” over QPS systems, training and processes (Queensland Police Service, 2022a). There is no mention of any investigative capacity on the QPS website dedicated to outlining the role of the command.

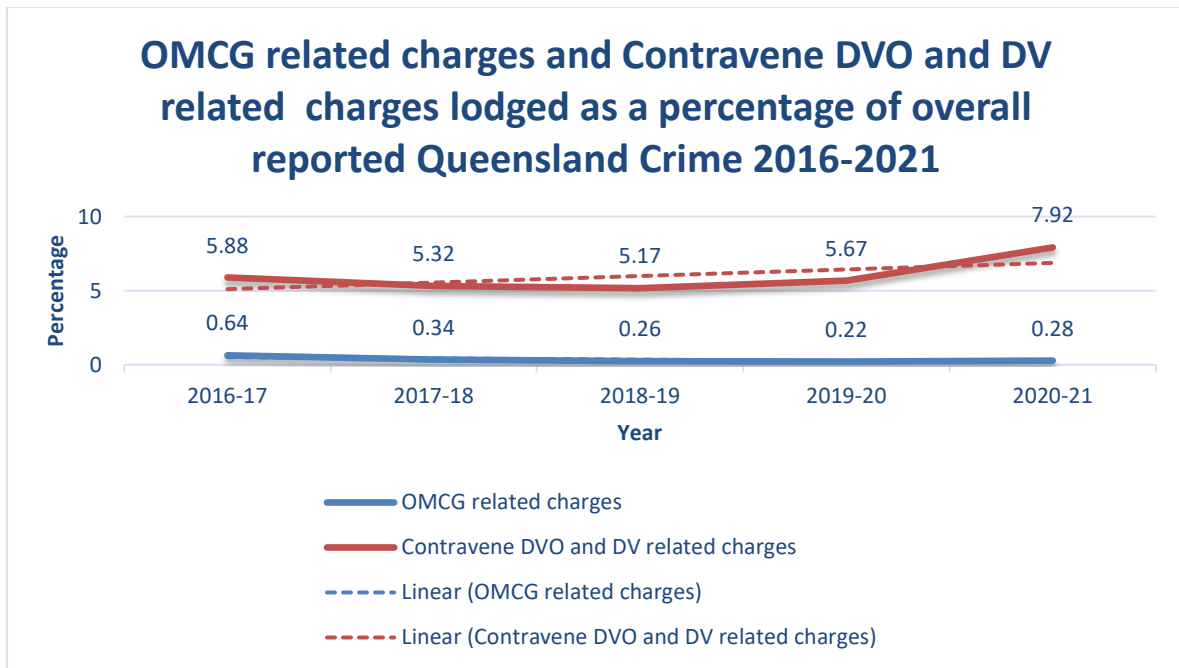
In the 2020-21 QPS Annual report the highlights of the DFV command include holding a conference and reviewing processes and procedures, no mention is made of any investigative efforts (Queensland Police Service, 2021). This again highlights the culture within the QPS that responses to DFV are not seen as being about investigating and fighting crime, but rather managing an administrative risk. How problematic these disparate approaches to a crime threat are is highlighted when you consider the resources put into fighting OMCG related crime in the light of reported OMCG crime and contravene Domestic Violence Orders (DVO) and domestic violence related charges lodged in the courts. The data is sourced from QPS Annual Reports and Qld Court data⁴.

It can be seen that DFV crime is a far greater threat than OMCG related crime. In 2020-21 the overall charge numbers of OMCG related charges was equivalent to 3.56 percent of DFV crime.



Over a five-year period between 2016-17 to 2020-21 all OMCG related crime accounted for .34 percent of all reported Queensland crime, over the same period charges relating to contravening a DVO breaches and DV related crime accounted for 5.96 percent of overall crime.

⁴ Court data available at <https://www.courts.qld.gov.au/court-users/researchers-and-public/stats>. Note DV related offences only includes Magistrates Courts with the most lodgements.



It highlights that as a crime threat, DFV is far greater than that posed by OMCG related crime, yet we have a more investigative resources allocated to OMCG crime compared to DFV crime. In the QPS Annual report for 2020-21 the only mention of proactive investigative efforts for DFV are Operation Sierra Alessa which identified 319 perpetrators responsible for committing DFV offences against 1156 victims (Queensland Police Service, 2021).

IF THERE ARE ANY CULTURAL ISSUES, WHETHER THEY HAVE CONTRIBUTED TO THE OVERREPRESENTATION OF FIRST NATIONS PEOPLE IN THE CRIMINAL JUSTICE SYSTEM.

Nil submission.

THE CAPABILITY, CAPACITY AND STRUCTURE OF THE QUEENSLAND POLICE SERVICE TO RESPOND TO DFV.

The QPS needs to accept that DFV is a serious crime threat to society. As such it should report on DFV related crime as a separate crime category in its reporting documents. Currently crime is reported as being offences against the person, offences against property and all other offences. The authors suggest that a fourth category of crime should be created called DFV related offences which should include breaches of DVO's and all DFV related criminal offences. This would provide transparency and accountability as to the real state of DFV related crime and responses to such.

Whilst the QPS has created a DV command it is essentially a toothless tiger when compared to other commands in terms of investigative ability. The authors would strongly suggest that consideration be given to putting specialist investigative capacity into the DV command to provide a central investigative oversight function. The authors would also suggest that in addition to this every district should have a dedicated DFV squad made up of detectives and plain clothes investigators to overview and investigate DVF related crime and responses to requestS for DV assistance. This is no different from the use of Child Protection Units to

conduct specialist investigations into child abuse matters and deal with both the criminal complaint and safety aspects of the subject child.

Formation of such squads would provide for specialist expertise in DFV crime and also provide a level of ownership for the investigation of such prior to these matters becoming a peak crime event such as a homicide. It should be clear that the authors are proposing that the squads should be staffed adequately so that they would under investigations of all DFV crime including arrest and charging of offenders. These squads would not merely be performing an oversight or advice role, they would be an active investigative unit.

THE ADEQUACY OF THE CURRENT CONDUCT AND COMPLAINTS HANDLING PROCESSES AGAINST POLICE OFFICERS.

Consideration should be given by Ethical Standards Command (ESC) to the creation of a specialist team to investigate all allegations of police misconduct in regards to DFV. This would provide a central clearing house for all such complaints and would allow better linkage of matters. It would also allow investigators the ability to develop specialist skills in determining if the police responses were adequate.

Any misconduct allegations in relation to DFV matters should be investigated by ESC and not returned to the original area where the complaint originates for investigation. This would provide better governance and accountability.

WHERE TO FROM HERE?

It is clear that there is still room for improvement in terms of the cultural approach of the QPS to DFV related crime. To this end the QPS needs to move away from seeing DFV crime as a risk management issue and instead treat it as the crime threat that it is.

The QPS should give strong consideration to the formation of specialist investigative units in each district with the primary role of overseeing and investigating DFV crime. The level of harm inflicted by DFV crime more than justifies such an approach being taken, especially when compared to other crime threats such as OMCGs, where investigative capability is at the forefront of responses. In terms of child abuse most districts have an independent specialist team that investigates such offences, whilst officer in charge of the Gold Coast Child Protection Unit Goldsworthy had responsibility for such a team.

Why is it the case that the QPS is prepared to allocate specialist investigators to areas such as child abuse, organised crime and drugs, but not DFV related crime? This is despite the threat level posed by DFV crime being equal to or greater than these other categories of criminal activity in terms of harm inflicted and sheer numbers of criminal offences?

Such question can no longer be adequately answered by merely using a risk management response to deal with what a real crime threat to society.

RECOMMENDATIONS

1. Urgent action needs to be taken to reduce the amount of time police have to spend processing DVO applications.
2. The creation of a fourth crime category for reporting purposes in corporate documents called DFV related offences.
3. Specialist DFV squads should be formed in each district to be tasked with the investigation of DFV related crime and oversight of responses to requests for DV assistance.
4. Creation of a specialist team with Ethical Standards Command to investigation all misconduct allegations that relate to DFV.



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